

FRANK H. GOWER, JR.

IBLA 81-45

Decided March 9, 1981

Appeal from decision of the Montana State Office, Bureau of Land Management, dismissing protest with respect to oil and gas lease offers (MTA-Sims-006).

Reversed and remanded.

1. Accounts: Payments -- Oil and Gas Leases: Applications: Drawings --
Oil and Gas Leases: Applications: Filing

A cashier's check is an acceptable form of remittance for payment of the filing fee accompanying a simultaneous oil and gas lease offer under 43 CFR 3112.2-2. A cashier's check is a draft drawn by a bank upon itself, issued by an authorized officer of the bank, and directed to another person. Where a check submitted as a filing fee appears to meet these criteria on its face, it will be considered the equivalent of a cashier's check. A Bureau of Land Management decision refusing such a check will be reversed and the case remanded to BLM.

APPEARANCES: William B. Collister, Esq., Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Frank H. Gower, Jr., has appealed the decision of the Montana State Office, Bureau of Land Management (BLM), dated September 22, 1980, dismissing his protest of BLM's return to him of his remittance and drawing entry cards for the July 1980 simultaneous oil and gas lease drawing.

Appellant filed drawing entry cards for 39 parcels 1/ offered in the July 1980 drawing. He submitted an "official's check" drawn on the Arapahoe Bank and Trust of Englewood, Colorado, for \$390 to cover filing fees. BLM returned the drawing entry cards and the check because it found the check to be an unacceptable form of remittance under 43 CFR 3112.2-2.

By letter dated September 11, 1980, appellant protested BLM's action of returning the check as unacceptable. Arapahoe Bank and Trust sent a letter dated August 25, 1980, to BLM wherein the president and chief executive officer of the bank asserted that the title "official's check" is another name for a cashier's check in the banking industry and that the bank's check meets the requirements of the regulations.

BLM's September 22, 1980, decision dismissing appellant's protest states:

Your protest is dismissed because your remittance, Official Check, did not meet the requirements of 43 CFR 3112.2-2, which states, "The filing fee shall be paid in U.S. currency, Post Office or bank money order, bank cashier's check or bank certified check, made payable to the Bureau of Land Management."

In his statement of reasons, appellant argues that by common definition an "official's check" is a "cashier's check" and satisfies the requirement of 43 CFR 3112.2-2. He urges that the Board reinstate his offers and order that the July 1980 simultaneous drawing be reheld.

BLM Instruction Memorandum No. 80-635, Change 2, dated November 3, 1980, states that for the purposes of 43 CFR 3112.2-2, a check is a cashier's check if it meets the following criteria:

These are checks drawn on and issued by a bank, signed by an authorized bank official, and are a direct obligation of the bank. To distinguish a cashier's check from other types of negotiable instruments, the following indications are noted:

- a. The check must be drawn on (payable by) a bank;

1/ The parcels for which appellant filed drawing entry cards are:

MT 8 MT 35
MT 15 MT 51-61
MT 30 MT 63-86

- b. The check must be issued (sold) by the bank on which it is drawn;
- c. The check must be signed by an authorized bank employee, such as a cashier.

A copy of the check submitted by appellant shows that it is a check drawn by the Arapahoe Bank and Trust upon itself for \$390; it was signed by an authorized officer of the bank, and BLM is the payee. The title "official's check" appears on its face. The bank's letter verifies that the check was issued as a cashier's check and we find that the check meets BLM's criteria for cashier's checks.

[1] A check which appears on its face to be a valid cashier's check, even when not so titled, is an acceptable form of remittance under 43 CFR 3112.2-2 and a BLM decision refusing to accept the check will be reversed. OXY Petroleum, Inc., 52 IBLA 239 (1981). Appellant's oil and gas lease offers are remanded to BLM for a reselection in accordance with the procedures set forth in 43 CFR 3112.3-2. See Ross L. Kinnaman, 48 IBLA 239 (1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and remanded to BLM.

Douglas E. Henriques
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Bruce R. Harris
Administrative Judge

